

REMARKS

Office action summary

Claims 41-42, 44, 46-52, 57-68, 70-78, and 100-106 are pending in the present application. Claims 41, 60, 70, and 100 are presently amended. No claims are presently added or cancelled.

In the office action of 1/13/2009 ("Office Action"), all of the claims were rejected. The status of the claims is as follows:

- Claims 41-42, 44, 46-49, 51-52, 60-68, 70-76, and 100-106 stand rejected under 35 USC § 103(a) as being unpatentable over Ginter et al, US Published Application 2004/0054630 ("Ginter"), in view of Downing, US Patent 6,842,522 ("Downing").
- Claim 50 stands rejected under 35 USC § 103(a) as being unpatentable over Ginter in view of Downing, and further in view of Knight, US Patent 6,243,350 ("Knight").
- Claims 57-58 and 77-78 stand rejected under 35 USC § 103(a) as being unpatentable over Ginter in view of Downing, and further in view of Yuen et al, US Patent 6,147,715 ("Yuen").
- Claim 59 stands rejected under 35 USC § 103(a) as being unpatentable over Ginter in view of Downing and Yuen, and further in view of Ward et al, US Published Application 2005/0010949 ("Ward").

The present amendments to the claims are filed together with a request for continued examination. The claims, as amended, are discussed below in light of the cited portions of the cited art. The examiner is respectfully urged to reconsider the application and withdraw the rejections in view of the above amendment and the following remarks. Should the examiner have any questions or concerns that might be efficiently resolved by way of a telephonic interview, the examiner is invited to call applicants' undersigned attorney, Jon M. Isaacson, at **206-332-1102**.

Telephonic interview

On February 10, 2009, applicants' undersigned attorney, Examiner Raman, and Examiner Kelley conducted a telephonic interview. Applicants' undersigned attorney would like to thank the examiners for granting the interview. During the interview, applicants' proposed amendments were discussed. Any further substance of the interview is incorporated into the remarks below.

Rejections under 35 USC § 103(a)

Claim 41 stands rejected under 35 USC § 103(a) as being unpatentable over Ginter in view of Downing. Without conceding the propriety of the rejection, applicants presently amend claim 41 to recite, in part, "wherein said effecting the distribution of video disks comprises: allowing a first customer to make a copy of one of said video disks and give said copied video disk to a second customer, and compensating the first customer when the copied video disk is viewed by the second customer." For a non-limiting example the effect of this recitation, applicants note the section of their disclosure entitled "EXAMPLE I" (specification as filed, from page 17 line 6 to page 18 line 2).

Applicants submit that the cited portions of the cited art fail to teach or suggest, individually or in combination, the above-noted recitation of claim 41. Specifically, applicants submit that neither of the cited references teach or suggest (1) allowing a customer to make a copy of a disk or (2) compensating the customer for making a copy of a disk.

First, neither of the cited references teaches or suggests allowing a customer to make a copy of a disk. Ginter teaches that content providers discourage copying of their digital content: "Commercial content providers are concerned with ensuring proper compensation for the use of their electronic information. *Electronic digital information*, for example a CD recording, *can today be copied relatively easily and inexpensively*." (Para. 0011; emphasis added.) Applicants submit that Ginter actually teaches away from allowing customers to make copies of video disks. Downing also explicitly discourages copying of digital video disks: "This invention relates to digital video disks and digital video disk players, specifically to a secure system involving proprietary digital video disk formats and associated compliant players *to prevent copying* and unauthorized use of digital video disk program material." (Col. 1, ll. 6-10; emphasis added.) Applicants submit that Downing teaches that customers

should be prevented from copying video disks.

Second, neither of the cited references teaches or suggests compensating the customer for making a copy of a disk. As noted above, Ginter and Downing teach that customers should be prevented from making copies. Further, Ginter teaches that “[c]ommercial content providers are concerned with ensuring proper compensation for the use of their electronic information” (para. 0011) and Downing teaches that DVDs “are a frequent target for pirates (copyright infringers) who make unauthorized copies or otherwise misuse same” (col. 1. ll. 29-31.) Further, applicants submit that the cited portions of Ginter and Downing fail to teach or suggest compensating the customer who does make copies of a video disk.

For at least the foregoing reasons, applicants submit that claim 41 is patentably defined over the cited art. Accordingly, applicants respectfully request withdrawal of the rejection of claim 41 under 35 USC § 103(a).

Independent **claims 60, 70 and 100** stand rejected under 35 USC § 103(a) as being unpatentable over Ginter in view of Downing. Without conceding the rejections of claims 60 and 100, applicants presently amend claims 60, 70 and 100 to include recitations similar to those discussed above regarding claim 41. For at least the reasons given above regarding the patentability of claim 41, applicants submit that claims 60, 70 and 100 are patentably defined over the cited art. Accordingly, applicants respectfully request withdrawal of the rejection of claims 60, 70 and 100 under 35 USC § 103(a).

Claims 42, 44, 46-52, 57-59, 61-68, 71-78 and 101-106 depend, directly or indirectly, from claims 41, 60, and 100. Inasmuch as claims 42, 44, 46-52, 57-59, 61-68, 71-78, and 101-106 depend from independent claims which are patentably defined over the cited art, applicants submit that claims 42, 44, 46-52, 57-59, 61-68, 71-78, and 101-106 are patentably defined over the cited art. Accordingly, applicants respectfully request withdrawal of the rejection of claims 42, 44, 46-52, 57-59, 61-68, 71-78, and 101-106 under 35 USC § 103(a).

Conclusion

Applicants believe that the present remarks are responsive to each of the points raised by the examiner in the official action, and submit that claims 41-42, 44, 46-52, 57-68, 70-78 and 100-106 of the application are in condition for allowance. Favorable consideration and

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passage to issue of the application at the examiner's earliest convenience is earnestly solicited.

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